

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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QUEEN PRIMYAH PAYNES EL BEY,

Plaintiff,

v.

McDONALD’S LOCATED AT FULTON
BROOKLYN and McDONALD’S
HEADQUARTERS,

Defendants.
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MEMORANDUM & ORDER
20-CV-3031 (WFK) (LB)

WILLIAM F. KUNTZ, II, United States District Judge:

On July 6, 2020, Plaintiff, proceeding pro se, filed this action against a “McDonald’s Located at Fulton Brooklyn” restaurant and McDonald’s Illinois headquarters (collectively, “Defendants”) alleging discrimination by Brooklyn McDonald’s employees during Plaintiff’s January 24, 2020 visit. ECF No. 1. By Order dated July 24, 2020, the Complaint was dismissed for failure to state a claim on which relief may be granted. ECF No. 4. Plaintiff was provided thirty days leave to file an amended complaint. On July 27, 2020, a copy of the July 24, 2020 Order was mailed to Plaintiff. On September 8, 2020, forty-three days after the July 24, 2020 Order was mailed to Plaintiff, and having received no amended complaint, this Court directed the Clerk of Court to enter judgment and close the case. ECF No. 5. On September 9, 2020, the Clerk of Court closed the case and mailed a copy of the dismissal order to Plaintiff. On February 5, 2021, Plaintiff motioned to reopen the case stating she did not receive the notice of dismissal until February 5, 2021. ECF No. 7. The Court denied the motion to reopen the case. On March 23, 2021, Plaintiff wrote requesting the Court provide a statement of reasons for its denial of Plaintiff’s motion to reopen. ECF No. 8. The Court’s statement of reasons follows.

A trial court grants a Rule 60(b) motion to reopen at its discretion. *See, e.g., Klein v. Williams*, 144 F.R.D. 16, 18 (E.D.N.Y. 1992). To grant relief from a final order pursuant to Rule 60(b), a court must find that (1) the circumstances of the case present grounds justifying relief and (2) the movant possesses a meritorious claim in the first instance. *See Pioneer Inv. Servs., Inc. v. Brunswick Assocs. Ltd. Partnership*, 507 U.S. 380, 392 (1993); *see also Cobos v. Adelphi Univ.*, 179 F.R.D. 381, 385 (E.D.N.Y. 1998).

Plaintiff was required to submit an amended complaint, or at the very least, a motion for an extension of time to file an amended complaint by August 26, 2020. Plaintiff claims not to have received an order mailed on July 27, 2020 until February 5, 2021. First, the Court finds Plaintiff's claim that a letter mailed within the state of New York took more than 6 months to arrive at its destination implausible. Additionally, Plaintiff has failed to advance any reasons justifying reopening the case, or that she possesses a meritorious claim. Thus, reopening the case would be futile. Accordingly, Plaintiff's motion to reopen the case is hereby DENIED.

SO ORDERED.

s/ WFK

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: March 26, 2021
Brooklyn, New York